



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 02/02/2006 (Per: MDK)



☞ Appendix A ... Part 01 of 04

☞ The 2005 drafting file for LRB 05-4303/P4

has been transferred to the 2005 drafting file for

LRB 05s0511

☞ The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.

2005 DRAFTING REQUEST

Bill

Received: **12/28/2005**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Cowles (608) 266-0484**

By/Representing: **John Stolzenberg**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact: **John Stolzenberg, David Lovell**

Addl. Drafters:

Subject: **Public Util. - energy**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Cowles@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Governor's Task Force on Renewables: public benefits changes

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P2	mkunkel 01/22/2006	jdyer 01/23/2006	rschluet 01/23/2006	_____	lnorthro 01/23/2006		S&L
/P3	mkunkel 01/30/2006	jdyer 01/30/2006	jfrantze 01/30/2006	_____	lnorthro 01/30/2006		S&L
/P4	mkunkel 02/02/2006	jdyer 02/02/2006	rschluet 02/02/2006	_____	mbarman 02/02/2006		S&L

FE Sent For:

<END>

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/P2	mkunkel 01/22/2006	jdye 01/23/2006	rschluet 01/23/2006	_____	lnorthro 01/23/2006		S&L
/P3	mkunkel 01/30/2006	jdye 01/30/2006	jfrantze 01/30/2006	_____	lnorthro 01/30/2006		S&L

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1/4 2/2 jd 226

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FE Sent For:

Handwritten signatures and initials:
P3 30 JLD 7.1.30 [Signature] [Signature]
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FE Sent For:

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-4303/P1

Public Benefits: Pre-Act 9 Model

WLC: 0274/1

DLL:JES:rv

12/28/2005

1 **AN ACT** *to repeal* 16.057 (2) (b), 16.957 (1) (d), (e), and (h), 16.957 (1) (r) and (2) (a),
2 16.957 (2) (b), 16.957 (2) (c) 2m., 2n., and 4., 16.957 (2) (d) 2., 16.957 (2) (d) 4. c.,
3 16.957 (3) (b) and (c), 16.957 (4) (c) 1. c. and 2., 16.957 (5) (c) and (d) and 16.957
4 (5) (e) 2.; *to renumber and amend* 196.025 (1); *to consolidate, renumber and*
5 *amend* 16.957 (5) (e) (intro.) and 1.; *to amend* 16.957 (title), 16.957 (1) (c), 16.957
6 (1) (o) 1m., 16.957 (1) (o) 3., 16.957 (2) (a) 4., 16.957 (2) (c) 2., 16.957 (2) (d) 1.,
7 16.957 (2) (d) 3., 16.957 (2) (d) 4. a., 16.957 (4) (a), 16.957 (4) (am), 16.957 (4) (b)
8 (intro.), 16.957 (4) (c) (title), 16.957 (4) (c) 1. (intro.), 16.957 (4) (c) 1. a., 16.957 (4)
9 (c) 3., 16.957 (5) (a), 16.957 (5) (am), 16.957 (5) (f), 16.957 (5) (g) 1. (intro.),
10 16.957 (5) (g) 1. a. and 16.957 (5) (g) 2.; *to repeal and recreate* 16.957 (5) (b) and
11 196.374; and *to create* 196.025 (1) (b) of the statutes; **relating to:** energy efficiency,
12 renewable resource, and low-income assistance programs.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LEGISLATIVE COUNCIL STAFF PREFATORY NOTE: This draft is prepared for Senator Robert Cowles. It is a preliminary draft of the "pre-Act 9" model of public benefits programs, consisting of energy efficiency and renewable resource programs implemented by energy providers under Public Service Commission (PSC) oversight under s. 196.374 and low-income programs administered by the Department of Administration (DOA) under s. 16.957. The draft revises ss. 16.957 and 196.374 to establish the new model and ensure consistency within those statutes and between them. It does not address the need to change cross-references and ensure consistency with other statutes. The draft deletes references to "public benefits" and refers instead to "low-income assistance", "energy efficiency", and "~~renewable~~ resource". The draft does *not* change the names of the Utility Public Benefits fund or the Council on Utility Public Benefits.

renewable

The draft is based on drafting instructions given by Senator Cowles, 2005 Senate Bill 459, and comments, including detailed wording recommendations, contained in the table, *Classification of Task Force Comments on AB 841/SB 459*, dated December 14, 2005.

The draft incorporates all or parts of the wording suggested in comments 6, 7, 8, 9, 15, 16, 17, 28, and 32, modifying the language as necessary, and in particular, omitting duplicative or superfluous language.

The draft incorporates some or all of the concepts in comments 2, 7, 9, 11, 20, 22, 23, 26, and 59, modifying the concepts as necessary, in particular, to apply to the "pre-Act 9" model.

1 **SECTION 1.** 16.057 (2) (b) of the statutes is repealed.

2 **SECTION 2.** 16.957 (title) of the statutes is amended to read:

3 **16.957 (title) Utility public benefits Low-income assistance.**

4 **SECTION 3.** 16.957 (1) (c) of the statutes is amended to read:

5 16.957 (1) (c) "Commitment to community program" means a program by a municipal
6 utility or retail electric cooperative for low-income assistance ~~or an energy conservation~~
7 ~~program by a municipal utility or retail electric cooperative.~~

8 **SECTION 4.** 16.957 (1) (d), (e), and (h) of the statutes are repealed.

9 **SECTION 5.** 16.957 (1) (o) 1m. of the statutes is amended to read:

10 16.957 (1) (o) 1m. The amount of the portion of the public benefits fee for fiscal year
11 1999-2000 that is specified in ~~sub. s. 16.957~~ s. 16.957 (4) (c) 1. of the 1999 statutes.

12 **SECTION 6.** 16.957 (1) (o) 3. of the statutes is amended to read:

13 16.957 (1) (o) 3. Fifty percent of the amount of public benefits fees that municipal
14 utilities and retail electric cooperatives are required to charge under ~~sub. s. 16.957~~ s. 16.957 (5) (a) of
15 the 1999 statutes in fiscal year 1999-2000. ~~The amount specified in this subdivision shall not~~
16 ~~be subject to the reduction under 1999 Wisconsin Act 9, section 9101 (1zv) (c).~~

17 **SECTION 7.** 16.957 (1) (r) and (2) (a) of the statutes are repealed.

18 **SECTION 8.** 16.957 (2) (a) 4. of the statutes is amended to read:

1 16.957 (2) (a) 4. ~~Fifty percent of the~~ The moneys collected in ~~public benefits~~
2 ~~low-income assistance~~ fees under sub. (5) (a).

3 **SECTION 9.** 16.957 (2) (b) of the statutes is repealed.

4 **SECTION 10.** 16.957 (2) (c) 2. of the statutes is amended to read:

5 16.957 (2) (c) 2. Requirements and procedures for applications for grants awarded
6 under programs established under par. (a) ~~or (b) 1.~~

7 **SECTION 11.** 16.957 (2) (c) 2m., 2n., and 4. of the statutes are repealed.

8 **SECTION 12.** 16.957 (2) (d) 1. of the statutes is amended to read:

9 16.957 (2) (d) 1. For each fiscal year ~~after fiscal year 1998-99~~, determine the
10 low-income need target for that fiscal year.

11 **SECTION 13.** 16.957 (2) (d) 2. of the statutes is repealed.

12 **SECTION 14.** 16.957 (2) (d) 3. of the statutes is amended to read:

13 16.957 (2) (d) 3. Deposit all moneys received under sub. (4) (a) or (5) ~~(e) or (d) (b) 2.~~
14 in the utility public benefits fund.

15 **SECTION 15.** 16.957 (2) (d) 4. a. of the statutes is amended to read:

16 16.957 (2) (d) 4. a. The expenses of the department, other state agencies, and grant
17 recipients in administering or participating in the programs under ~~pars. par. (a) and (b).~~

18 **SECTION 16.** 16.957 (2) (d) 4. c. of the statutes is repealed.

19 **SECTION 17.** 16.957 (3) (b) and (c) of the statutes are repealed.

20 **SECTION 18.** 16.957 (4) (a) of the statutes is amended to read:

21 16.957 (4) (a) (title) *Requirement to charge ~~public benefits~~ low-income assistance fees.*

22 Each electric utility, except for a municipal utility, shall charge each customer a ~~public benefits~~
23 low-income assistance fee in an amount established in rules promulgated by the department
24 under par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees

1 to the department in accordance with the rules promulgated under par. (b). The ~~public benefits~~
2 low-income assistance fees collected by an electric utility shall be considered trust funds of
3 the department and not income of the electric utility.

4 **SECTION 19.** 16.957 (4) (am) of the statutes is amended to read:

5 16.957 (4) (am) *Electric bills.* An electric utility shall ~~include a public benefits show~~
6 the low-income assistance fee in the fixed charges for electricity as a separate line in a
7 customer's bill, identified as the "state low-income assistance fee", and shall provide the
8 customer with an annual statement that identifies the annual charges for ~~public benefits~~
9 low-income assistance fees and describes the programs for which fees are used.

10 **SECTION 20.** 16.957 (4) (b) (intro.) of the statutes is amended to read:

11 16.957 (4) (b) *Rules.* (intro.) In consultation with the council, the department shall
12 promulgate rules that establish the amount of a ~~public benefits~~ low-income assistance fee
13 under par. (a). Fees established in rules under this paragraph may vary by class of customer,
14 but shall be uniform within each class, and shall satisfy each of the following:

15 **SECTION 21.** 16.957 (4) (c) (title) of the statutes is amended to read:

16 16.957 (4) (c) (title) *Amount of ~~public benefits~~ low-income assistance fees.*

17 **SECTION 22.** 16.957 (4) (c) 1. (intro.) of the statutes is amended to read:

18 16.957 (4) (c) 1. 'Low-income funding.' (intro.) ~~In fiscal year 1999-2000, a portion~~
19 ~~of the public benefits fee shall be an amount that, when added to 50% of the estimated public~~
20 ~~benefits fees charged by municipal utilities and retail electric cooperatives under sub. (5) (a)~~
21 ~~for that fiscal year, shall equal \$24,000,000. In each fiscal year after fiscal year 1999-2000,~~
22 a portion of the public benefits, the low-income assistance fee shall be an amount that, when
23 added to the sum of the following shall equal the low-income need target for that fiscal year
24 determined by the department under sub. (2) (d) 1.:

1 **SECTION 23.** 16.957 (4) (c) 1. a. of the statutes is amended to read:

2 16.957 (4) (c) 1. a. ~~Fifty percent of the estimated public benefits~~ The estimated
3 low-income assistance fees charged by municipal utilities and retail electric cooperatives
4 under sub. (5) (a) for that fiscal year.

5 **SECTION 24.** 16.957 (4) (c) 1. c. and 2. of the statutes are repealed.

6 **SECTION 25.** 16.957 (4) (c) 3. of the statutes is amended to read:

7 16.957 (4) (c) 3. 'Limitation on electric bill increases.' For the period beginning on
8 October 29, 1999, and ending on June 30, 2008, the total increase in a customer's electric bills
9 that is based on the requirement to pay ~~public benefits~~ low-income assistance fees, including
10 any increase resulting from an electric utility's compliance with this section, may not exceed
11 3% of the total of every other charge for which the customer is billed for that period or \$750
12 per month, whichever is less.

13 **SECTION 26.** 16.957 (5) (a) of the statutes is amended to read:

14 16.957 (5) (a) *Requirement to charge ~~public benefits~~ low-income assistance fees.* Each
15 retail electric cooperative and municipal utility shall charge a monthly ~~public benefits~~
16 low-income assistance fee to each customer or member in an amount that is sufficient for the
17 retail electric cooperative or municipal utility to collect an annual average of ~~\$16~~ \$8 per meter.
18 A retail electric cooperative or municipal utility may determine the amount that a particular
19 class of customers or members is required to pay under this paragraph and may charge
20 different fees to different classes of customers or members.

21 **SECTION 27.** 16.957 (5) (am) of the statutes is amended to read:

22 16.957 (5) (am) *~~Public benefits~~ Low-income assistance fee restriction.*
23 Notwithstanding par. (a), for the period beginning on October 29, 1999, and ending on
24 June 30, 2008, the total increase in a customer's or member's electric bills that is based on the

1 requirement to pay ~~public benefits~~ low-income assistance fees, including any increase
2 resulting from a retail electric cooperative's or municipal utility's compliance with this
3 section, may not exceed ~~3%~~ 1.5% of the total of every other charge for which the member or
4 customer is billed for that period or ~~\$750~~ \$375 per month, whichever is less.

5 **SECTION 28.** 16.957 (5) (b) of the statutes is repealed and recreated to read:

6 16.957 (5) (b) *Commitment to community programs.* 1. Except as provided in subd.
7 2., each retail electric cooperative and municipal utility shall spend the fees that it charges
8 under par. (a) on commitment to community programs.

9 2. No later than October 1, 2006, and no later than every 3rd year after that date, each
10 municipal utility or retail electric cooperative shall notify the department whether it has
11 elected to contribute the fees that it charges under par. (a) to the programs established under
12 sub. (2) (a) in each fiscal year of the 3-year period for which it has made the election. If a
13 municipal utility or retail electric cooperative elects to contribute to the programs established
14 under sub. (2) (a), it shall pay the low-income assistance fees that it collects under par. (a) to
15 the department in each fiscal year of the 3-year period for which it has made the election.

16 **SECTION 29.** 16.957 (5) (c) and (d) of the statutes are repealed.

17 **SECTION 30.** 16.957 (5) (e) (intro.) and 1. of the statutes are consolidated, renumbered
18 16.957 (5) (e) and amended to read:

19 16.957 (5) (e) *Wholesale supplier credit.* (intro.) If a wholesale supplier has established
20 a program for low-income assistance ~~or an energy conservation~~ program, a municipal utility
21 or retail electric cooperative that is a customer or member of the wholesale supplier may do
22 ~~any of the following:~~

23 ~~1. Include~~ include an amount equal to the product of the municipal utility's or retail
24 electric cooperative's wholesale supply percentage and the amount that the wholesale supplier

1 has spent on low-income assistance in a fiscal year in calculating the amount that the
2 municipal utility or retail electric cooperative has spent on low-income assistance in that fiscal
3 year under par. ~~(d) 2. b. or 3. a. (b).~~

4 **SECTION 31.** 16.957 (5) (e) 2. of the statutes is repealed.

5 **SECTION 32.** 16.957 (5) (f) of the statutes is amended to read:

6 16.957 (5) (f) *Joint programs.* Municipal utilities or retail electric cooperatives may
7 establish joint commitment to community programs, except that each municipal utility or
8 retail electric cooperative that participates in a joint program is required to comply with the
9 spending requirements under par. ~~(d)~~ (b).

10 **SECTION 33.** 16.957 (5) (g) 1. (intro.) of the statutes is amended to read:

11 16.957 (5) (g) 1. (intro.) For each fiscal year, each municipal utility and retail electric
12 cooperative that ~~does not pay 100% of the public benefits~~ spends any portion of the
13 low-income assistance fee that it charges under par. (a) to the department under par. (c) shall
14 file a report with the department for commitment to community programs under par. (b) shall
15 provide for an independent audit of its programs and submit a report to the department that
16 describes each of the following:

17 **SECTION 34.** 16.957 (5) (g) 1. a. of the statutes is amended to read:

18 16.957 (5) (g) 1. a. An accounting of ~~public benefits~~ low-income assistance fees
19 charged to customers or members under par. (a) in the fiscal year and expenditures on
20 commitment to community programs under par. ~~(d)~~ (b), including any amounts included in
21 the municipal utility's or retail electric cooperative's calculations under par. (e).

22 **SECTION 35.** 16.957 (5) (g) 2. of the statutes is amended to read:

23 16.957 (5) (g) 2. The department shall require that municipal utilities and retail electric
24 cooperatives file reports under subd. 1. electronically, in a format that allows tabulation,

1 comparison, and other analysis of the reports. The department shall maintain reports filed
2 under subd. 1. for at least 6 years.

3 **SECTION 36.** 196.025 (1) of the statutes is renumbered 196.025 (1) (a) and amended to
4 read:

5 196.025 (1) (a) To Except as provided in par. (b), to the extent cost-effective,
6 technically feasible and environmentally sound, the commission shall implement the
7 priorities under s. 1.12 (4) in making all energy-related decisions and orders, including
8 advance plan, rate setting and rule-making orders.

9 **SECTION 37.** 196.025 (1) (b) of the statutes is created to read:

10 196.025 (1) (b) In a proceeding regarding a request by a utility under s. 196.49, 196.491
11 (3), or 196.80 for authority to construct, improve, or acquire facilities the commission is not
12 required to evaluate energy conservation and efficiency as an element of or alternative to the
13 proposal if all of the following apply:

- 14 1. The commission has fulfilled all of its duties and responsibilities under s. 196.374.
15 2. The utility has satisfied the requirements of s. 196.374 for energy efficiency programs
16 for that year, as specified in s. 196.374 (8).

17 **SECTION 38.** 196.374 of the statutes is repealed and recreated to read:

18 **196.374 Energy efficiency and renewable resource programs. (1) DEFINITIONS.** In
19 this section:

20 (a) "Commitment to community program" means an energy efficiency or load
21 management program by a municipal energy utility or retail electric cooperative.

22 (b) "Customer application of renewable resources" means the generation of electricity
23 from renewable resources that takes place on the premises of a customer of an energy utility
24 or municipal utility or a member of a retail electric cooperative.

1 (c) "Energy efficiency program" means a program for reducing the usage or increasing
2 the efficiency of the usage of natural gas or electricity.

3 (d) "Energy utility" means an investor-owned electric or natural gas public utility.

4 (e) "Load management program" means a program to allow a utility or electric
5 cooperative to control or modify daily or seasonal demand for electricity associated with
6 equipment or devices used by a customer or member.

7 (f) "Renewable resource" has the meaning given in s. 196.378 (1) (h).

8 (g) "Renewable resource program" means a program for encouraging the development
9 or use of customer applications of renewable resources, including educating customers or
10 members about renewable resources, encouraging customers or members to use renewable
11 resources, and encouraging research technology transfers.

12 (h) "Retail electric cooperative" has the meaning given in s. 16.957 (1) (t).

13 (i) "Wholesale supplier" has the meaning given in s. 16.957 (1) (w).

14 (j) "Wholesale supply percentage" has the meaning given in s. 16.957 (1) (x).

15 (2) ENERGY EFFICIENCY AND RENEWABLE RESOURCE PROGRAMS. (a) *Statewide programs.*

16 1. The energy utilities in this state shall collectively establish and fund statewide energy
17 efficiency and renewable resource programs. The energy utilities shall contract with one or
18 more persons to administer the programs. The utilities may not execute a contract under this
19 subdivision unless the commission has approved the contract under sub. (3) (d). Except as
20 provided in par. (b), every energy utility shall spend the amount determined by the commission
21 for that utility under sub. (3) (b) 3. to fund statewide energy efficiency and renewable resource
22 programs.

23 2. The purpose of the programs under this paragraph shall be to help achieve
24 environmentally sound and adequate energy supplies at reasonable cost, consistent with the

(a)
1 commission's responsibilities under s. 196.025 (1) and the utilities' obligations under this
2 chapter. The programs shall include, at a minimum, all of the following:

3 a. Components to address the energy needs of residential, commercial, agricultural,
4 institutional, and industrial energy users.

5 b. Initiatives and market strategies that address the needs of persons or businesses facing
6 the most significant barriers to creation of or participation in markets for energy efficient
7 products the person or business manufactures or sells or energy efficiency services that the
8 person or business provides.

9 3. The commission may not require an energy utility to administer or fund any energy
10 efficiency or renewable resource program that is in addition to the programs required under
11 subd. 1. and any commission order applicable to the utility that is in effect on the effective date
12 of this subdivision ... [revisor inserts date]. This subdivision does not limit the authority of
13 the commission to enforce an energy utility's obligations under s. 196.378.

14 (b) *Utility-administered programs.* 1. An energy utility may, with commission
15 approval, administer or fund one or more energy efficiency programs that is limited to large
16 commercial, industrial, institutional, or agricultural customers in its service territory. The
17 utility shall pay for a program under this subdivision with a portion of the amount required
18 under sub. (3) (b) 3., as approved by the commission. An energy utility may request, and the
19 commission may approve to modify or discontinue, in whole or in part, a program it
20 administers or funds under this paragraph. An energy utility shall request approval to
21 establish, modify, or discontinue a program under this paragraph as part of a proceeding under
22 sub. (3) (b). This subdivision applies to any large customer energy efficiency program in
23 operation on the effective date of this subdivision ... [revisor inserts date] that the commission
24 approved prior to January 1, 2003.

see email

5/1/04

1 2. The commission may, by order and at the request of an energy utility, authorize the
2 energy utility to administer or fund an energy efficiency or renewable resource program that
3 is in addition to the programs required under par. (a) or authorized under subd. 1. An energy
4 utility may request, and the commission may approve, to modify or discontinue, in whole or
5 in part, a program it administers or funds under this subdivision. An energy utility shall
6 request approval to establish, modify, or discontinue a program under this subdivision as part
7 of a proceeding under sub. (3) (b).

8 3. An energy utility that is required to administer or fund an energy efficiency or
9 renewable resource program under an order applicable to that utility in effect on the effective
10 date of this subdivision ... [revisor inserts date] may request the commission to relieve it of
11 that requirement. An energy utility shall request relief under this subdivision as part of the
12 first commission proceeding under sub. (3) (b).

13 (3) COMMISSION DUTIES. The commission shall have oversight of programs under sub.

14 (2). The commission shall do all of the following:

15 (a) Promulgate rules to establish all of the following:

16 1. Procedures for energy utilities to collectively contract with program administrators
17 under sub. (2) (a) 1. for administration of statewide programs under sub. (2) (a) 1.

18 2. Procedures and criteria for commission review and approval of contracts under sub.
19 (2) (a) 1. for administration of statewide programs under sub. (2) (a) 1., including criteria for
20 the selection of program administrators under sub. (2) (a) 1.

21 3. Procedures and criteria for commission review and approval of utility-administered
22 programs under sub. (2) (b) 1. and 2. *INSERT*

23 4. Minimum requirements for energy efficiency and renewable resource programs
24 under sub. (2) (a) 1. and (b) 1. and 2.

1 (b) At least every four years, after notice and opportunity to be heard, the commission
2 shall, by order, do all of the following:

3 1. Evaluate the energy efficiency and renewable resource programs under sub. (2) (a)
4 1. and (b) 1. and 2. and any order applicable to an energy utility in effect on the effective date
5 of this subdivision ... [revisor inserts date] and set or revise goals, priorities, and measurable
6 targets for the programs. (see email)

7 2. Establish the required level of total funding for energy efficiency and renewable
8 resource programs under sub. (2) (a) 1. and (b) 1. and any order applicable to an energy utility
9 in effect on the effective date of this subdivision ... [revisor inserts date]. The commission shall
10 provide a reasonably consistent and adequate multi-year budget that promotes program
11 improvement and stability, and maturation of programs and delivery resources. In
12 establishing the required level of total funding, the commission shall consider all of the
13 following:

14 a. Studies of potential energy-efficiency improvements that could be made in this state,
15 including at least one study completed within the preceding 2 years that provides a prospective
16 5- and 10-year estimate of such potential that is cost-effective.

17 b. The potential short-term and long-term impacts on electric and natural gas rates and
18 alternative means to mitigate such impacts.

19 c. The impact on the continuation and effectiveness of existing energy efficiency and
20 renewable resource programs, and the ability of such programs to capture time-limited and
21 cost-effective energy-efficiency opportunities.

22 d. The impact on the reliability and adequacy of systems for the generation and
23 transmission of electricity and the transmission of natural gas.

24 e. Societal impacts.

1 f. The potential for displacing or delaying construction of electric generating plants and
2 transmission lines.

3 g. Economic impacts that are likely to accrue from reducing state and private
4 expenditures on coal, natural gas, fuel oil, and other fossil fuel imports.

5 h. Any other relevant factors.

6 3. Establish the portion of the amount established under subd. 2. that each energy utility
7 must spend for energy efficiency and renewable resource programs. The commission shall
8 credit against the amount that an energy utility is required to spend any amount the
9 commission authorizes the utility to spend for an energy efficiency program under sub. (2) (b)
10 1. or requires the utility to spend for energy efficiency or renewable resource programs under
11 an order applicable to that utility in effect on the effective date of this subdivision ... [revisor
12 inserts date].

13 (c) Maximize coordination of program delivery, including coordination between
14 programs under sub. (2) (a) 1. and among programs specified in par. (b) 1. and sub. (7),
15 low-income weatherization programs under s. 16.957, and other energy efficiency or
16 renewable resource programs.

17 (d) Review and approve contracts under sub. (2) (a) 1. between the energy utilities and
18 program administrators.

19 (e) Review requests under sub. (2) (b). The commission may condition its approval of
20 a request under sub. (2) (b) as necessary to protect the public interest. The commission shall
21 approve a request under sub. (2) (b) 1. or 2. if the commission determines that the proposed
22 energy efficiency program is in the public interest and satisfies all of the following:

23 1. The energy efficiency program has specific savings targets and performance goals
24 approved by the commission.

1 2. The energy efficiency program is subject to independent evaluation by the
2 commission.

3 3. Services under the energy efficiency program are provided through 3rd-party market
4 providers on a nondiscriminatory basis.

5 (f) Annually, contract with one or more independent auditors to prepare a financial and
6 performance audit of the programs specified in par. (b) 1. The purpose of the performance
7 audit shall be to evaluate the programs and measure the performance of the programs against
8 the goals and targets set by the commission under par. (b) 1.

9 (g) Annually, prepare and post on its Internet site a report and submit a summary of not
10 more than 2 pages to the legislature under s. 13.172 (2). The reports shall describe each of the
11 following:

12 1. The expenses of the commission, utilities, and program administrators contracted
13 under sub. (2) (a) 1. in administering or participating in the programs under sub. (2) (a) 1.

14 2. The effectiveness of the programs specified in par. (b) 1. and sub. (7) in reducing
15 demand for electricity and increasing the use of renewable resources owned by customers or
16 members.

17 3. The results of audits under par. (f).

18 4. Any other information required by the commission.

19 (4) DISCRIMINATION PROHIBITED; COMPETITION. (a) In implementing programs under sub.
20 (2) (a) 1. or (b) 1. or 2., including the awarding of grants or contracts, a utility or utility affiliate,
21 a person who contracts with the utilities under sub. (2) (a) 1., or a person who subcontracts
22 with such a person:

1 1. May not discriminate against an energy utility or its affiliate or a wholesale supplier
2 or its affiliate solely on the basis of its status as an energy utility or its affiliate or wholesale
3 supplier or its affiliate.

4 2. Shall provide services to utility customers on a non-discriminatory basis and subject
5 to a customer's choice.

6 (b) A utility that provides financing under an energy efficiency program under sub. (2)
7 (b) 1. or 2. for installation, by a customer, of energy efficiency processes, equipment, or
8 appliances, or an affiliate of such a utility, may not sell to or install for the customer those
9 processes, equipment, appliances, or related materials. The customer shall acquire the
10 installation of the processes, equipment, appliances, or related materials from an independent
11 contractor of the customer's choice.

12 (5) COST RECOVERY; EQUITABLE DISTRIBUTION. (a) The commission shall ensure in
13 rate-making orders that an energy utility recovers from its ratepayers the amounts the electric
14 utility is required to spend under sub. (3) (b) 3. The commission may prescribe the accounting
15 treatment of energy utility expenditures, including the use of any escrow accounting.

16 (b) The commission shall ensure that the cost of energy efficiency and renewable
17 resource programs is equitably divided among energy utilities and customer classes so that
18 similarly situated ratepayers contribute equivalent amounts for the programs.

19 (c) The commission shall ensure that customers throughout the state have an equivalent
20 opportunity to receive the benefits of the programs under sub. (2) (a) 1. and (b) 1. The
21 commission shall ensure that statewide programs are designed to ensure that retail customers
22 in areas not served by programs under sub. (2) (b) 1. receive equivalent opportunities as those
23 in areas served by programs under sub. (2) (b) 1.

1 (6) ENERGY UTILITY BILLS; ANNUAL STATEMENT. An energy utility shall provide
2 customers with an annual statement that describes the applicable programs specified in sub.
3 (3) (b) 1. and presents cost and benefit information for those programs.

4 (7) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES. (a) *Requirement to charge*
5 *fees.* 1. Each retail electric cooperative and municipal utility shall charge a monthly fee to
6 each customer or member in an amount that is sufficient for the retail electric cooperative or
7 municipal utility to collect an annual average of \$8 per meter. A retail electric cooperative or
8 municipal utility may determine the amount that a particular class of customers or members
9 is required to pay under this paragraph and may charge different fees to different classes of
10 customers or members.

11 2. Notwithstanding subd. 1., for the period beginning on October 29, 1999, and ending
12 on June 30, 2008, the total increase in a customer's or member's electric bills that is based on
13 the requirement to pay fees under subd. 1., including any increase resulting from a retail
14 electric cooperative's or municipal utility's compliance with this section, may not exceed
15 1.5% of the total of every other charge for which the member or customer is billed for that
16 period or \$375 per month, whichever is less.

17 (b) *Commitment to community programs.* 1. Except as provided in subd. 2., each retail
18 electric cooperative and municipal utility shall spend the fees that it charges under par. (a) on
19 commitment to community programs. A commitment to community program shall meet the
20 program requirements under sub. (2) (a) 2. and comply with the rules promulgated under sub.
21 (3) (a) 4.

22 2. No later than October 1, 2006, and no later than every 3rd year after that date, each
23 municipal utility or retail electric cooperative shall notify the commission whether it has
24 elected to contribute all or part of the fees that it charges under par. (a) to statewide programs

1 established under sub. (2) (a) 1. in each fiscal year of the 3-year period for which it has made
2 the election. A municipal utility or retail electric cooperative that makes an election under this
3 subdivision shall spend that portion of the fees that it charges under par. (a) that it does not
4 contribute to statewide programs under sub. (2) (a) 1. on commitment to community
5 programs.

6 (c) *Wholesale supplier credit.* If a wholesale supplier has established an energy
7 efficiency or load management program, a municipal utility or retail electric cooperative that
8 is a customer or member of the wholesale supplier may include an amount equal to the product
9 of the municipal utility's or retail electric cooperative's wholesale supply percentage and the
10 amount that the wholesale supplier has spent on energy efficiency or load management
11 programs in a fiscal year in calculating the amount that the municipal utility or retail electric
12 cooperative has spent on commitment to community programs under par. (b).

13 (d) *Joint programs.* Municipal utilities or retail electric cooperatives may establish joint
14 commitment to community programs, except that each municipal utility or retail electric
15 cooperative that participates in a joint program shall comply with the spending requirements
16 under par. (b).

17 (e) *Reports.* 1. For each fiscal year, each municipal utility and retail electric cooperative
18 that spends any portion of the fee that it charges under par. (a) for commitment to community
19 programs under par. (b) shall provide for an independent audit of its programs and submit a
20 report to the commission that describes all of the following:

21 a. An accounting of fees charged to customers or members under par. (a) in the fiscal
22 year and expenditures on commitment to community programs under par. (b), including any
23 amounts included in the municipal utility's or retail electric cooperative's calculations under
24 par. (c).

1 b. A description of commitment to community programs established by the municipal
2 utility or retail electric cooperative in the fiscal year.

3 c. The effectiveness of the commitment to community programs in reducing demand
4 for electricity by customers or members.

5 d. The results of audits under this subdivision.

6 e. Any other information required by the commission.

7 2. The commission shall maintain reports filed under subd. 1. for at least 6 years.

8 **(8) COMPLIANCE.** An energy utility that spends the full amount determined for it under
9 sub. (3) (b) 3. in any year is considered to have satisfied its requirements under this section
10 for energy efficiency and renewable resource programs for that year.

11 **SECTION 39. Nonstatutory provisions.**

12 (1) **INITIAL CONTRACTS FOR ADMINISTRATION OF ENERGY EFFICIENCY AND RENEWABLE**
13 **RESOURCE PROGRAMS.** To promote administrative efficiency and build on existing, successful
14 programs, the public service commission shall direct energy utilities, as defined in section
15 196.374 (1) (d) of the statutes, as created by this act, to negotiate initial contracts under section
16 196.374 (2) (a) 1. of the statutes, as created by this act, with the holders of current contracts
17 under section 16.957 (3) (b) of the 2003-04 statutes, to the extent that the programs
18 administered by those contract holders are functioning effectively and accomplishing most or
19 all of the goals set for them.

20 (2) **EFFECTIVE DATES.** This act takes effect on the day after publication, except as
21 follows:

1 (a) LOW-INCOME ASSISTANCE PROGRAMS; ENERGY EFFICIENCY AND RENEWABLE RESOURCE
2 PROGRAMS; STATE ENERGY POLICY. The treatment of sections 16.957, 196.025 (1), and 196.374
3 of the statutes takes effect on July 1, 2007.

4 (END)

+ passive review
See 1/13 email

Kunkel, Mark

From: Lovell, David
Sent: Friday, January 13, 2006 1:55 PM
To: Kunkel, Mark
Subject: FW: Revisions to WLC: 0274/1

From: Lovell, David
Sent: Friday, January 13, 2006 1:35 PM
To: Lovell, David
Cc: Stolzenberg, John; Stuart, Todd; Raschka, Adam
Subject: RE: Revisions to WLC: 0274/1

Mark,

The following are instructions for revisions to the portion of the draft sub. to SB 459 that is based on WLC: 0274/1.

There is at least one outstanding issue: whether to include or exclude load management programs in the programs required by this proposal. This won't affect the draft you are working on, but we should keep it in mind as an unresolved issue.

Please call if you have questions. If you are working over the weekend, feel free to call me at home -- 255-9931.

Program Funding

Continue, for now, the policy that the funding for state-wide programs will be set by PSC, as in 196.374 (3) (b) 2. in the WLC draft.

Non-Statutory Provision. In its first proceeding under section 196.374 (3) (b) of the statutes, as created by this act, the public service commission shall establish a total level of funding under section 197.374 (3) (b) 2. of the statutes, as created by this act, that is not less than \$75 million nor more than \$121 million, except that the public service commission may submit to the joint committee on finance proposed total level of funding that is less than \$75 million or more than \$121 million. The joint committee on finance shall have 10 working days in which to review the proposal. After the tenth working day after submission of the proposal to the joint committee on finance, if the joint committee on finance has taken no action to disapprove or modify the proposal or to extend its review period, the public service commission may implement the proposal. [Cowles]

MARK: this was my stab at drafting a passive review processes -- feel free to change it in any way you want.

196.025--consideration of state energy policy

Task force comments 52, 60, & 62

P. 8, l. 5: delete that line and substitute: 196.025 (1) (a) (title) *Consideration of energy priorities*. ~~To~~ Except as provided in pars. (b) to (d), to the extent cost-effective,

P. 8, l. 9: should read: 196.025 (1) (b) to (d) are created to read:"

P. 8, l. 10: after "196.025 (1) (b)" insert: "*Energy conservation and efficiency*."

P. 8, l. 11; delete "construct, improve, or acquire facilities" and substitute: "acquire, construct, install, or operate any plant, equipment, property, or facility". [NOTE: this wording is based on s. 196.49 (2), which would also describe a proceeding under s. 196.491 (3), with "acquire" added to describe a proceeding under s. 196.80.]

P. 8, l. 16: after that line, insert:

(c) *Renewable resources*. 1. In this paragraph, "renewable resource" has the meaning given in s. 196.478 (1) (h) and includes a resource with a capacity of 60 megawatts or more that derives electricity from hydroelectric power.

2. In a proceeding regarding a request by a utility under s. 196.49, 196.491 (3), or 196.80 for authority to acquire, construct, install, or operate any plant, equipment, property, or facility, the commission is not required to consider renewable resources as an element of or alternative to the proposal if all of the following apply:

a. The commission has fulfilled all of its duties and responsibilities under s. 196.378.

b. The utility is in compliance with the requirements of s. 196.378 (2) for that year.

(d) *Transmission facilities.* In a proceeding regarding a request by a utility under s. 196.49 or 196.491 (3) to construct, install, or operate an electric transmission facility or associated equipment, the commission is not required to find that approval of the proposal would implement the policies under s. 1.12 (2) to (5).

Program Design & Priorities

P. 10, l. 24: after "2003." insert: "The commission may not order a utility to administer or fund a program under this subdivision." [task force comment 20]

P. 12, l. 6: after "programs." insert: "The commission shall give priority to programs that moderate the growth in electric and natural gas demand and usage by facilitating markets and assisting market providers to achieve higher levels of energy efficiency, promoting energy reliability and adequacy, avoiding adverse environmental impacts from the use of energy, and promoting rural economic development." [task force comment 3.]

Treatment of Pre-existing Orders

Use definitions to refer to the types of orders:

() "Load management program" means a program to allow an energy utility to control or manage daily or seasonal customer demand associated with equipment or devices used by customers. [task force comment 17]

() "Ordered program" means any of the following:

1. An energy efficiency or renewable resource program that an energy utility conducted under s. 196.374, 1997 Stats., and continued to conduct under a commission order in effect on the effective date of this subdivision ... [revisor inserts date].

2. A shared savings program that an energy utility conducted prior to October 29, 1999 and continued to conduct under a commission order in effect on the effective date of this subdivision ... [revisor inserts date].

3. An energy efficiency or renewable resource program that an energy utility conducted under a commission order issued on or after October 29, 1999, and before the effective date of this subdivision ... [revisor inserts date].

() "Shared savings program" means a program under which an energy utility finances the installation of energy efficiency improvements or renewable resources systems in the facilities of a customer and recovers the cost of the installation from a portion of the cost savings realized by the customer as a result of the installation.

NOTE: October 29, 1999 is the effective date of 1999 Act 9.

Use the defined terms as follows:

P. 10, l. 11-12: delete "any commission order applicable ... [revisor inserts date]." with "... any ordered program of the utility."

P. 10, l. 22-24: delete that sentence.

P. 11, l. 8-12: replace that subdivision with the following:

3. An energy utility that conducts or funds an ordered program may request, and the commission may approve to modify or discontinue, in whole or in part, the ordered program. An energy utility shall request the modification or discontinuation of an ordered program as part of the first proceeding under sub. (3) (b).

P. 12, l. 3-6: replace with the following: "Evaluate the energy efficiency and renewable resource programs under sub. (2) (a) 1. and (b) 1. and ordered programs and set or revise goals, priorities, and measurable targets for the programs."

P. 12, l. 8-9: replace with the following: "resource programs under sub. (2) (a) 1. and (b) 1. The level of total funding shall include the amount anticipated to be spent under ordered programs. The commission shall"

P. 13, l. 10-12: replace with the following: "1. or requires the utility to spend for ordered programs."

P. 13, I. 14: replace with the following: "programs under sub. (2) (a) 1. and (b) 1. and 2., and sub. (7), ordered programs,"

Local Governments & Agricultural Activities

[Cowles]

P. 10, I. 3: after that line, insert:

b. Components to reduce the energy costs incurred by local units of government and agricultural activities, including programs to increase the efficiency of energy use by local units of government and agricultural activities and programs to promote and provide technical and financial assistance for the installation of renewable resources at buildings and other facilities of local units of government and agricultural activities. The commission shall ensure that not less than \$29 million from the moneys utilities are required to spend under sub. (3) (b) 3. is spent on programs under this subdivision except that, if the commission determines that the full amount cannot be spent on cost-effective programs for local units of government and agricultural activities, the commission shall ensure that any surplus funds be spent on programs to serve commercial and industrial customers. In this subdivision, "local unit of government" has the meaning given in s. 23.24 (4) (a) 1., and "agricultural activity" has the meaning given in s. 101.10 (1) (a).

✓ Renumber the current par. (b) to be par. (c).

Other

✓ P. 10, I. 1: change the reference to 196.025 (1) (a).

✓ P. 11, I. 22: after "(2) (b) 1. and 2." insert "and requests under sub. (2) (b) 3."

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

Kunkel, Mark

From: Lovell, David
Sent: Friday, January 20, 2006 11:44 AM
To: Kunkel, Mark
Cc: Stuart, Todd; Stolzenberg, John
Subject: More instructions re WLC: 0274/1

Mark,

I understand from Todd Stuart that your draft of the public benefits piece is heading to editing soon, if not there already. In talking with Todd, we have identified a couple additional changes that are needed to that draft. If it is not too late, can you get these in? If not, we'll save them for the moment.

(1) Page 9, line 7: delete that line and substitute:

(f) "Renewable resource" means a resource that derives energy from any source other than coal, petroleum products, nuclear power or, except as used in a fuel cell, natural gas. "Renewable resource" includes resources deriving energy from any of the following:

1. Solar energy.
2. Wind power.
3. Water power.
4. Biomass.
5. Geothermal technology.
6. Tidal or wave action.
7. Fuel cell technology that does not use coal or petroleum products as fuel.

Note: this is the definition used in the RPS (s. 196.478), modified to apply to all forms of energy, not just electricity. The business about natural gas in fuel cells is from that definition, too, by way of the definition of "conventional resource".

(2) Page 9, line 11: delete that line and substitute: "resources, and encouraging the transfer of new or emerging technologies from the research, development, and demonstration to commercial implementation."

Note: this is replacing the term "technology transfer".

(3) Page 9, line 17: after "contract" insert ", on the basis of competitive bids,".

I hope to have the drafting instructions for the remaining portions of the bill to you today.

Thanks--

David

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

Kunkel, Mark

From: Lovell, David
Sent: Wednesday, January 04, 2006 4:42 PM
To: Kunkel, Mark
Subject: RE: Questions re WLC draft: 0274/1

- ✓ 1. Section 25 should apply to low-income assistance fees under the draft and low-income expenditures by munis & coops. Until the effective date (July 1, 2007, in this draft) public benefits fees will continue to be collected and split between energy and low-income programs, and the current cap will apply to them. The same applies to munis & coops.
- ✓ 2. I thought about that, too. Under current law, munis & coops can opt into the state programs 100% or 0%, and can do so for low-income, energy, or both. I thought that the taskforce comments included language on this suggesting that a partial opt-in to the low-income program should be allowed under the draft. I can't find that now, so I would say to stick with the all-or-nothing approach for the time being. If they want it otherwise, we will hear from them.

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

From: Kunkel, Mark
Sent: Wednesday, January 04, 2006 4:26 PM
To: Stolzenberg, John; Lovell, David
Subject: Questions re WLC draft: 0274/1

1. Sections 25 and 27 of the draft: should the fee restrictions apply to: 1) public benefits fees under current law and 2) low-income assistance fees under the bill? In other words, if you limit the restriction to the low-income assistance fees, don't you inadvertently no longer count toward the restriction the amount paid under current law? Or am I being too picky?
2. On page 7, line 12, why refer to "any portion" of the fees? As I understand it, in a fiscal year, a muni or coop must contribute 100% of the fees, or it must spend 100% of the fees on commitment to community programs.

-- Mark



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-4303/P1

MDK:....ch



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 16.057 (2) (b), 16.957 (1) (d), (e), and (h), 16.957 (1) (r) and (2)
2 (a), 16.957 (2) (b), 16.957 (2) (c) 2m., 2n., and 4., 16.957 (2) (d) 2., 16.957 (2) (d)
3 4. c., 16.957 (3) (b) and (c), 16.957 (4) (c) 1. c. and 2., 16.957 (5) (c) and (d) and
4 16.957 (5) (e) 2.; **to renumber and amend** 196.025 (1); **to consolidate,**
5 **renumber and amend** 16.957 (5) (e) (intro.) and 1.; **to amend** 16.957 (title),
6 16.957 (1) (c), 16.957 (1) (o) 1m., 16.957 (1) (o) 3., 16.957 (2) (a) 4., 16.957 (2) (c)
7 2., 16.957 (2) (d) 1., 16.957 (2) (d) 3., 16.957 (2) (d) 4. a., 16.957 (4) (a), 16.957
8 (4) (am), 16.957 (4) (b) (intro.), 16.957 (4) (c) (title), 16.957 (4) (c) 1. (intro.),
9 16.957 (4) (c) 1. a., 16.957 (4) (c) 3., 16.957 (5) (a), 16.957 (5) (am), 16.957 (5) (f),
10 16.957 (5) (g) 1. (intro.), 16.957 (5) (g) 1. a. and 16.957 (5) (g) 2.; **to repeal and**
11 **recreate** 16.957 (5) (b) and 196.374; and **to create** 196.025 (1) (b) of the

1 statutes; **relating to:** energy efficiency, renewable resource, and low-income
2 assistance programs.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft is prepared for Senator Robert Cowles. It is a preliminary draft of the “pre-Act 9” model of public benefits programs, consisting of energy efficiency and renewable resource programs implemented by energy providers under Public Service Commission (PSC) oversight under s. 196.374 and low-income programs administered by the Department of Administration (DOA) under s. 16.957. The draft revises ss. 16.957 and 196.374 to establish the new model and ensure consistency within those statutes and between them. It does not address the need to change cross-references and ensure consistency with other statutes. The draft deletes references to “public benefits” and refers instead to “low-income assistance”, “energy efficiency”, and “removable resource”. The draft does *not* change the names of the Utility Public Benefits fund or the Council on Utility Public Benefits.

The draft is based on drafting instructions given by Senator Cowles, 2005 Senate Bill 459, and comments, including detailed wording recommendations, contained in the table, *Classification of Task Force Comments on AB 841/SB 459*, dated December 14, 2005.

The draft incorporates all or parts of the wording suggested in comments 6, 7, 8, 9, 15, 16, 17, 28, and 32, modifying the language as necessary, and in particular, omitting duplicative or superfluous language.

The draft incorporates some or all of the concepts in comments 2, 7, 9, 11, 20, 22, 23, 26, and 59, modifying the concepts as necessary, in particular, to apply to the “pre-Act 9” model.

3 **SECTION 1.** 16.057 (2) (b) of the statutes is repealed.

4 **SECTION 2.** 16.957 (title) of the statutes is amended to read:

5 **16.957 (title) Utility public benefits Low-income assistance.**

6 **SECTION 3.** 16.957 (1) (c) of the statutes is amended to read:

7 16.957 (1) (c) “Commitment to community program” means a program by a
8 municipal utility or retail electric cooperative for low-income assistance ~~or an energy~~
9 ~~conservation program by a municipal utility or retail electric cooperative.~~

10 **SECTION 4.** 16.957 (1) (d), (e), and (h) of the statutes are repealed.

11 **SECTION 5.** 16.957 (1) (o) 1m. of the statutes is amended to read:

1 16.957 (1) (o) 1m. The amount of the portion of the public benefits fee for fiscal
2 year 1999-2000 that is specified in sub. s. 16.957 (4) (c) 1. ~~of the 1999 statutes.~~ stats

3 SECTION 6. 16.957 (1) (o) 3. of the statutes is amended to read:

4 16.957 (1) (o) 3. Fifty percent of the amount of public benefits fees that
5 municipal utilities and retail electric cooperatives are required to charge under sub.
6 s. 16.957 (5) (a) ~~of the 1999 statutes~~ stats. 2 in fiscal year 1999-2000. The amount specified
7 in this subdivision shall not be subject to the reduction under 1999 Wisconsin Act 9,
8 section 9101 (1zv) (c).

9 SECTION 7. 16.957 (1) (r) and (2) (a) of the statutes ~~are~~ is repealed.

10 SECTION 8. 16.957 (2) (a) 4. of the statutes is amended to read:

11 16.957 (2) (a) 4. ~~Fifty percent of the~~ The moneys collected in public benefits
12 low-income assistance fees under sub. (5) (a).

13 SECTION 9. 16.957 (2) (b) of the statutes is repealed.

14 SECTION 10. 16.957 (2) (c) 2. of the statutes is amended to read:

15 16.957 (2) (c) 2. Requirements and procedures for applications for grants
16 awarded under programs established under par. (a) ~~or (b) 1.~~

17 SECTION 11. 16.957 (2) (c) 2m., 2n., and 4. of the statutes are repealed.

18 SECTION 12. 16.957 (2) (d) 1. of the statutes is amended to read:

19 16.957 (2) (d) 1. For each fiscal year ~~after fiscal year 1998-99~~, determine the
20 low-income need target for that fiscal year.

21 SECTION 13. 16.957 (2) (d) 2. of the statutes is repealed.

22 SECTION 14. 16.957 (2) (d) 3. of the statutes is amended to read:

23 16.957 (2) (d) 3. Deposit all moneys received under sub. (4) (a) or (5) (e) ~~or (d)~~
24 (b) 2. in the utility public benefits fund.

25 SECTION 15. 16.957 (2) (d) 4. a. of the statutes is amended to read:

16.957 (2) (d) 4. a. The expenses of the department, other state agencies, and grant recipients in administering or participating in the programs under ~~pars.~~ par. (a) and (b).

SECTION 16. 16.957 (2) (d) 4. c. of the statutes is repealed.

SECTION 17. 16.957 (3) (b) and (c) of the statutes are repealed.

SECTION 18. 16.957 (4) (a) of the statutes is amended to read:

16.957 (4) (a) (title) *Requirement to charge ~~public-benefits~~ low-income assistance fees.* Each electric utility, except for a municipal utility, shall charge each customer a ~~public-benefits~~ low-income assistance fee in an amount established in rules promulgated by the department under par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees to the department in accordance with the rules promulgated under par. (b). The ~~public-benefits~~ low-income assistance fees collected by an electric utility shall be considered trust funds of the department and not income of the electric utility.

SECTION 19. 16.957 (4) (am) of the statutes is amended to read:

16.957 (4) (am) *Electric bills.* An electric utility shall ~~include a public-benefits~~ show the low-income assistance fee in the fixed charges for electricity as a separate line in a customer's bill, identified as the "state low-income assistance fee", and shall provide the customer with an annual statement that identifies the annual charges for ~~public-benefits~~ low-income assistance fees and describes the programs for which fees are used.

SECTION 20. 16.957 (4) (b) (intro.) of the statutes is amended to read:

16.957 (4) (b) *Rules.* (intro.) In consultation with the council, the department shall promulgate rules that establish the amount of a ~~public-benefits~~ low-income assistance fee under par. (a). Fees established in rules under this paragraph may

1 vary by class of customer, but shall be uniform within each class, and shall satisfy
2 each of the following:

3 SECTION 21. 16.957 (4) (c) (title) of the statutes is amended to read:

4 16.957 (4) (c) (title) *Amount of public benefits low-income assistance fees.*

5 SECTION 22. 16.957 (4) (c) 1. (intro.) of the statutes is amended to read:

6 16.957 (4) (c) 1. 'Low-income ~~funding~~ ^{need target}' (intro.) ~~In fiscal year 1999–2000, a~~
7 ~~portion of the public benefits fee shall be an amount that, when added to 50% of the~~
8 ~~estimated public benefits fees charged by municipal utilities and retail electric~~
9 ~~cooperatives under sub. (5) (a) for that fiscal year, shall equal \$24,000,000. In each~~
10 ~~fiscal year after fiscal year 1999–2000, a portion of the public benefits, the~~
11 low-income assistance fee shall be an amount that, when added to the sum of the
12 following shall equal the low-income need target for that fiscal year determined by
13 the department under sub. (2) (d) 1.:

14 SECTION 23. 16.957 (4) (c) 1. a. of the statutes is amended to read:

15 16.957 (4) (c) 1. a. ~~Fifty percent of the estimated public benefits~~ The estimated
16 low-income assistance fees charged by municipal utilities and retail electric
17 cooperatives under sub. (5) (a) for that fiscal year.

18 SECTION 24. 16.957 (4) (c) 1. c. and 2. of the statutes are repealed.

19 SECTION 25. 16.957 (4) (c) 3. of the statutes is amended to read:

20 16.957 (4) (c) 3. 'Limitation on electric bill increases.' For the period beginning
21 on October 29, 1999, and ending on June 30, 2008, the total increase in a customer's
22 electric bills that is based on the requirement to pay ^{plain} public benefits low-income
23 assistance fees, including any increase resulting from an electric utility's compliance
24 with this section, may not exceed 3% of the total of every other charge for which the
25 customer is billed for that period or \$750 per month, whichever is less.

INSERT 5-05

Fees under s. 16.957 (4) (a), 2005 stats., and

1 **SECTION 26.** 16.957 (5) (a) of the statutes is amended to read:

2 16.957 (5) (a) *Requirement to charge ~~public benefits~~ low-income assistance fees.*

3 Each retail electric cooperative and municipal utility shall charge a monthly ~~public~~
4 ~~benefits~~ low-income assistance fee to each customer or member in an amount that
5 is sufficient for the retail electric cooperative or municipal utility to collect an annual
6 average of \$16 ~~\$8~~ per meter. A retail electric cooperative or municipal utility may
7 determine the amount that a particular class of customers or members is required
8 to pay under this paragraph and may charge different fees to different classes of
9 customers or members.

*fees under s. 16.957(5) (a),
2003 stats. and*

10 **SECTION 27.** 16.957 (5) (am) of the statutes is amended to read:

11 16.957 (5) (am) *~~Public benefits~~ Low-income assistance fee restriction.*

12 Notwithstanding par. (a), for the period beginning on October 29, 1999, and ending
13 on June 30, 2008, the total increase in a customer's or member's electric bills that is
14 based on the requirement to pay ~~public benefits~~ low-income assistance fees,
15 including any increase resulting from a retail electric cooperative's or municipal
16 utility's compliance with this section, may not exceed 3% 1.5% of the total of every
17 other charge for which the member or customer is billed for that period or \$750 \$375
18 per month, whichever is less.

in each fiscal year,

19 **SECTION 28.** 16.957 (5) (b) of the statutes is repealed and recreated to read:

20 16.957 (5) (b) *Commitment to community programs.* 1. Except as provided in
21 subd. 2., each retail electric cooperative and municipal utility shall spend the fees
22 that it charges under par. (a) ~~on commitment to community programs.~~

23 2. No later than October 1, 2006, and no later than every 3rd year after that
24 date, each municipal utility or retail electric cooperative shall notify the department
25 whether it has elected to contribute the fees that it charges under par. (a) to the

in that fiscal year

INSERT 6-18

*on commitment to community programs an
amount equal to*

1 programs established under sub. (2) (a) in each fiscal year of the 3-year period for
2 which it has made the election. If a municipal utility or retail electric cooperative
3 elects to contribute to the programs established under sub. (2) (a), it shall pay the
4 low-income assistance fees that it collects under par. (a) to the department in each
5 fiscal year of the 3-year period for which it has made the election.

6 SECTION 29. 16.957 (5) (c) and (d) of the statutes are repealed.

7 SECTION 30. 16.957 (5) (e) (intro.) and 1. of the statutes are consolidated,
8 renumbered 16.957 (5) (e) and amended to read:

9 16.957 (5) (e) *Wholesale supplier credit.* ~~(intro.)~~ If a wholesale supplier has
10 established a program for low-income assistance ~~or an energy conservation~~
11 ~~program~~, a municipal utility or retail electric cooperative that is a customer or
12 member of the wholesale supplier may ~~do any of the following~~:

13 1. ~~Include~~ include an amount equal to the product of the municipal utility's or
14 retail electric cooperative's wholesale supply percentage and the amount that the
15 wholesale supplier has spent on low-income assistance in a fiscal year in calculating
16 the amount that the municipal utility or retail electric cooperative has spent on
17 ~~low-income assistance~~ commitment to community programs in that fiscal year under par. (d) 2. b. or 3. a. (b).

18 SECTION 31. 16.957 (5) (e) 2. of the statutes is repealed.

19 SECTION 32. 16.957 (5) (f) of the statutes is amended to read:

20 16.957 (5) (f) *Joint programs.* Municipal utilities or retail electric cooperatives
21 may establish joint commitment to community programs, except that each municipal
22 utility or retail electric cooperative that participates in a joint program is required
23 to comply with the spending requirements under par. (d) (b).

24 SECTION 33. 16.957 (5) (g) 1. (intro.) of the statutes is amended to read:

INSEAT
7-13

1 16.957 (5) (g) 1. (intro.) For each fiscal year, each municipal utility and retail
2 electric cooperative that does not pay 100% of the public benefits ~~spends any portion~~
3 ~~of the low-income assistance fee that it charges under par. (a) to the department~~
4 ~~under par. (c) shall file a report with the department for commitment to community~~
5 ~~programs under par. (b) shall provide for an independent audit of its programs and~~
6 ~~submit a report to the department that describes each of the following:~~

7 SECTION 34. 16.957 (5) (g) 1. a. of the statutes is amended to read:

8 16.957 (5) (g) 1. a. An accounting of public benefits low-income assistance fees
9 charged to customers or members under par. (a) in the fiscal year and expenditures
10 on commitment to community programs under par. (d) (b), including any amounts
11 included in the municipal utility's or retail electric cooperative's calculations under
12 par. (e). (INSERT 8-17)

13 SECTION 35. 16.957 (5) (g) 2. of the statutes is amended to read:

14 16.957 (5) (g) 2. The department shall require that municipal utilities and
15 retail electric cooperatives file reports under subd. 1. electronically, in a format that
16 allows tabulation, comparison, and other analysis of the reports. The department
17 shall maintain reports filed under subd. 1. for at least 6 years.

18 SECTION 36. 196.025 (1) of the statutes is renumbered 196.025 (1) (a) and
19 amended to read:

20 196.025 (1) (a) ^{par.} ~~To~~ Except as provided in par. (b), to the extent cost-effective,
21 technically feasible and environmentally sound, the commission shall implement
22 the priorities under s. 1.12 (4) in making all energy-related decisions and orders,
23 including advance plan, rate setting and rule-making orders.

24 SECTION 37. 196.025 (1) (b) ^{to (d)} of the statutes ^{are} ~~is~~ created to read:

Consideration of energy priorities. (ital)

Energy conservation and efficiency.

ital

1 196.025 (1) (b) In a proceeding regarding a request by a utility under s. 196.49,
2 196.491 (3), or 196.80 for authority to construct, improve, or acquire facilities, the
3 commission is not required to evaluate energy conservation and efficiency as an
4 element of or alternative to the proposal if all of the following apply:

5 1. The commission has fulfilled all of its duties and responsibilities under s.
6 196.374.

7 2. The utility has satisfied the requirements of s. 196.374 for energy efficiency
8 programs for that year, as specified in s. 196.374 (8).

9 **SECTION 38.** 196.374 of the statutes is repealed and recreated to read:

10 **196.374 Energy efficiency and renewable resource programs. (1)**

11 **DEFINITIONS.** In this section:

12 (a) "Commitment to community program" means an energy efficiency or load
13 management program by a municipal energy utility or retail electric cooperative.

14 (b) "Customer application of renewable resources" means the generation of
15 electricity from renewable resources that takes place on the premises of a customer
16 of an energy utility or municipal utility or a member of a retail electric cooperative.

17 (c) "Energy efficiency program" means a program for reducing the usage or
18 increasing the efficiency of the usage of natural gas or electricity.

19 (d) "Energy utility" means an investor-owned electric or natural gas public
20 utility.

21 (e) "Load management program" means a program to allow a utility or electric
22 cooperative to control or *manage* daily or seasonal demand for electricity associated
23 with equipment or devices used by a *customer* or member.

24 (f) "Renewable resource" has the meaning given in s. 196.378 (1) (h).

*INSERT
9-23*

*INSERT
9-2*

*an energy
utility or electric
cooperative*

INSERT 10-5

1 (g) "Renewable resource program" means a program for encouraging the
2 development or use of customer applications of renewable resources, including
3 educating customers or members about renewable resources, encouraging
4 customers or members to use renewable resources, and encouraging research
5 technology transfers.

6 (h) "Retail electric cooperative" has the meaning given in s. 16.957 (1) (t).

7 (i) "Wholesale supplier" has the meaning given in s. 16.957 (1) (w).

8 (L) (j) "Wholesale supply percentage" has the meaning given in s. 16.957 (1) (x).

9 (2) ENERGY EFFICIENCY AND RENEWABLE RESOURCE PROGRAMS. (a) *Statewide*
10 *programs*. 1. The energy utilities in this state shall collectively establish and fund
11 statewide energy efficiency and renewable resource programs. The energy utilities
12 shall contract with one or more persons to administer the programs. The utilities
13 may not execute a contract under this subdivision unless the commission has
14 approved the contract under sub. (3) (d). Except as provided in par. (b), every energy
15 utility shall spend the amount determined by the commission for that utility under
16 sub. (3) (b) 3. to fund statewide energy efficiency and renewable resource programs.

17 2. The purpose of the programs under this paragraph shall be to help achieve
18 environmentally sound and adequate energy supplies at reasonable cost, consistent
19 with the commission's responsibilities under s. 196.025 (1) and the utilities'
20 obligations under this chapter. The programs shall include, at a minimum, all of the
21 following:

22 a. Components to address the energy needs of residential, commercial,
23 agricultural, institutional, and industrial energy users.

24 C. b. Initiatives and market strategies that address the needs of ^{individuals} ~~persons~~ or
25 businesses facing the most significant barriers to creation of or participation in

INSERT 10-23

1 markets for energy efficient products ^{that} the ~~person~~ ^{individual} or business manufactures or sells
2 or energy efficiency services that the ~~person~~ ^{individual} or business provides.

3 3. The commission may not require an energy utility to administer or fund any
4 energy efficiency or renewable resource program that is in addition to the programs
5 required under subd. 1. ~~and any commission order applicable to the utility that is in~~ ^{ordered program of the utility}
6 ~~effect on the effective date of this subdivision ... [revisor inserts date].~~ This
7 subdivision does not limit the authority of the commission to enforce an energy
8 utility's obligations under s. 196.378.

9 (b) *Utility-administered programs.* 1. An energy utility may, with commission
10 approval, administer or fund one or more energy efficiency programs that is limited
11 to large commercial, industrial, institutional, or agricultural customers in its service
12 territory. The utility shall pay for a program under this subdivision with a portion
13 of the amount required under sub. (3) (b) 3., as approved by the commission. An
14 energy utility may request, and the commission may approve ^{to} to modify or
15 discontinue, in whole or in part, a program ~~it~~ administers or funds under this
16 paragraph. An energy utility shall request approval to establish, modify, or
17 discontinue a program under this ~~paragraph~~ ^{subdivision} as part of a proceeding under sub. (3)

18 (b). This subdivision applies to any large customer energy efficiency program in
19 operation on the effective date of this subdivision ... [revisor inserts date] that the
20 commission approved prior to January 1, 2003. ^{INSERT 11-20}

21 2. The commission may, by order and at the request of an energy utility,
22 authorize ~~the~~ ^{an} energy utility to administer or fund an energy efficiency or renewable
23 resource program that is in addition to the programs required under par. (a) or
24 authorized under subd. 1. An energy utility may request, and the commission may
25 approve, to modify or discontinue, in whole or in part, a program ~~it~~ administers or

the energy utility

INSERT 12-3

1 funds under this subdivision. An energy utility shall request approval to establish,
2 modify, or discontinue a program under this subdivision as part of a proceeding
3 under sub. (3) (b).

4 3. An energy utility that is required to administer or fund an energy efficiency
5 or renewable resource program under an order applicable to that utility in effect on
6 the effective date of this subdivision [revisor inserts date] may request the
7 commission to relieve it of that requirement. *the energy utility* An energy utility shall request relief
8 under this subdivision as part of the first commission proceeding under sub. (3) (b).

9 (3) COMMISSION DUTIES. ^(a) The commission shall have oversight of programs
10 under sub. (2) ^{(a) (b)} The commission shall ~~do all of the following:~~

11 ^(a) Promulgate rules to establish all of the following:

12 1. Procedures for energy utilities to collectively contract with program
13 administrators under sub. (2) (a) 1. for administration of statewide programs under
14 sub. (2) (a) 1.

15 2. Procedures and criteria for commission review and approval of contracts
16 under sub. (2) (a) 1. for administration of statewide programs under sub. (2) (a) 1.,
17 including criteria for the selection of program administrators under sub. (2) (a) 1.

18 3. Procedures and criteria for commission review and approval of
19 utility-administered programs under sub. (2) (b) 1. and 2. *and requests under*

20 4. Minimum requirements for energy efficiency and renewable resource
21 programs under sub. (2) (a) 1. and (b) 1. and 2. *sub. (2) (b) 3.*

22 (b) At least every four years, after notice and opportunity to be heard, the
23 commission shall, by order, do all of the following:

24 1. Evaluate the energy efficiency and renewable resource programs under sub.
25 (2) (a) 1. and (b) 1. and 2. and any order applicable to an energy utility in effect on

INSERT 12-23

1 the effective date of this subdivision [revisor inserts date] and set or revise goals,
2 priorities, and measurable targets for the programs. *[Handwritten signature]*

3 2. Establish the required level of total funding for energy efficiency and
4 renewable resource programs under sub. (2) (a) 1. and (b) 1. ~~and any order applicable~~
5 ~~to an energy utility in effect on the effective date of this subdivision [revisor~~
6 ~~inserts date].~~ *(INSERT 13-6)* The commission shall provide a reasonably consistent and adequate
7 multi-year budget that promotes program improvement and stability, and
8 maturation of programs and delivery resources. In establishing the required level
9 of total funding, the commission shall consider all of the following:

10 a. Studies of potential energy-efficiency improvements that could be made in
11 this state, including at least one study completed within the preceding 2 years that
12 provides a prospective 5- and 10-year estimate of such potential that is
13 cost-effective.

14 b. The potential short-term and long-term impacts on electric and natural gas
15 rates and alternative means to mitigate such impacts.

16 c. The impact on the continuation and effectiveness of existing energy efficiency
17 and renewable resource programs, and the ability of such programs to capture
18 time-limited and cost-effective energy-efficiency opportunities.

19 d. The impact on the reliability and adequacy of systems for the generation and
20 transmission of electricity and the transmission of natural gas.

21 e. Societal impacts.

22 f. The potential for displacing or delaying construction of electric generating
23 plants and transmission lines.

24 g. Economic impacts that are likely to accrue from reducing state and private
25 expenditures on coal, natural gas, fuel oil, and other fossil fuel imports.

The commission shall do all of the following (9) 1.

1 h. Any other relevant factors.

2 3. Establish the portion of the amount established under subd. 2. that each
3 energy utility must spend for energy efficiency and renewable resource programs.

4 The commission shall credit against the amount that an energy utility is required
5 to spend any amount the commission authorizes the utility to spend for an energy
6 efficiency program under sub. (2) (b) 1. or requires the utility to spend for energy

7 ~~efficiency or renewable resource programs under an order applicable to that utility~~
8 ~~in effect on the effective date of this subdivision ... [revisor inserts date].~~ *ordered programs*

9 (c) Maximize coordination of program delivery, including coordination between
10 programs under sub. (2) (a) 1. and ~~among programs specified in par. (b) 1. and sub.~~ *2, and*
11 (7), *ordered programs* low-income weatherization programs under s. 16.957, and other energy
12 efficiency or renewable resource programs.

13 2. (d) Review and approve contracts under sub. (2) (a) 1. between the energy
14 utilities and program administrators.

15 3. (e) Review requests under sub. (2) (b). The commission may condition its
16 approval of a request under sub. (2) (b) as necessary to protect the public interest.
17 The commission shall approve a request under sub. (2) (b) 1. or 2. if the commission
18 determines that the proposed energy efficiency program is in the public interest and
19 satisfies all of the following:

20 a. 1. The energy efficiency program has specific savings targets and performance
21 goals approved by the commission.

22 b. 2. The energy efficiency program is subject to independent evaluation by the
23 commission.

24 c. 3. Services under the energy efficiency program are provided through
25 3rd-party market providers on a nondiscriminatory basis.

1 4. (f) Annually, contract with one or more independent auditors to prepare a
2 financial and performance audit of the programs specified in par. (b) 1. The purpose
3 of the performance audit shall be to evaluate the programs and measure the
4 performance of the programs against the goals and targets set by the commission
5 under par. (b) 1.

6 5. (g) Annually, prepare and post on ^{the commission's} its Internet site a report and submit a
7 summary of not more than 2 pages to the legislature under s. 13.172 (2). The reports
8 shall describe each of the following:

9 a. 1. The expenses of the commission, utilities, and program administrators
10 contracted under sub. (2) (a) 1. in administering or participating in the programs
11 under sub. (2) (a) 1.

12 b. 2. The effectiveness of the programs specified in par. (b) 1. and sub. (7) in
13 reducing demand for electricity and increasing the use of renewable resources owned
14 by customers or members.

15 c. 3. The results of audits under par. (f).

16 d. 4. Any other information required by the commission.

17 (4) DISCRIMINATION PROHIBITED; COMPETITION. (a) In implementing programs
18 under sub. (2) (a) 1. or (b) 1. or 2., including the awarding of grants or contracts, a
19 utility or utility affiliate, a person who contracts with the utilities under sub. (2) (a)
20 1., or a person who subcontracts with such a person:

21 1. May not discriminate against an energy utility or its affiliate or a wholesale
22 supplier or its affiliate solely on the basis of its status as an energy utility or its
23 affiliate or wholesale supplier or its affiliate.

24 2. Shall provide services to utility customers on a non-discriminatory basis and
25 subject to a customer's choice.

An energy
1 (b) ~~A~~ utility that provides financing under an energy efficiency program under
2 sub. (2) (b) 1. or 2. for installation, by a customer, of energy efficiency processes,
3 equipment, or appliances, or an affiliate of such a utility, may not sell to or install for
4 the customer those processes, equipment, appliances, or related materials. The
5 customer shall acquire the installation of the processes, equipment, appliances, or
6 related materials from an independent contractor of the customer's choice.

7 (5) COST RECOVERY; EQUITABLE DISTRIBUTION. (a) The commission shall ensure
8 in rate-making orders that an energy utility recovers from its ratepayers the
9 amounts the ~~electric~~ *energy* utility is required to spend under sub. (3) (b) 3. The commission
10 may prescribe the accounting treatment of energy utility expenditures, including the
11 use of any escrow accounting.

12 (b) The commission shall ensure that the cost of energy efficiency and
13 renewable resource programs is equitably divided among energy utilities and
14 customer classes so that similarly situated ratepayers contribute equivalent
15 amounts for the programs.

16 (c) The commission shall ensure that customers throughout the state have an
17 equivalent opportunity to receive the benefits of the programs under sub. (2) (a) 1.
18 and (b) 1. The commission shall ensure that statewide programs are designed to
19 ensure that retail customers in areas not served by programs under sub. (2) (b) 1.
20 receive equivalent opportunities as those in areas served by programs under sub. (2)
21 (b) 1.

22 (6) ENERGY UTILITY BILLS; ANNUAL STATEMENT. An energy utility shall provide
23 customers with an annual statement that describes the applicable programs
24 specified in sub. (3) (b) 1. and presents cost and benefit information for those
25 programs.

1 (7) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES. (a) *Requirement to*
2 *charge fees.* 1. Each retail electric cooperative and municipal utility shall charge a
3 monthly fee to each customer or member in an amount that is sufficient for the retail
4 electric cooperative or municipal utility to collect an annual average of \$8 per meter.
5 A retail electric cooperative or municipal utility may determine the amount that a
6 particular class of customers or members is required to pay under this paragraph
7 and may charge different fees to different classes of customers or members.

8 2. Notwithstanding subd. 1., for the period beginning on October 29, 1999, and
9 ending on June 30, 2008, the total increase in a customer's or member's electric bills
10 that is based on the requirement to pay fees under subd. 1., including any increase
11 resulting from a retail electric cooperative's or municipal utility's compliance with
12 this section, may not exceed 1.5% of the total of every other charge for which the
13 member or customer is billed for that period or \$375 per month, whichever is less.

14 (b) *Commitment to community programs.* 1. Except as provided in subd. 2.,
15 each retail electric cooperative and municipal utility shall spend the fees that it
16 charges under par. (a) on commitment to community programs. A commitment to
17 community program shall meet the program requirements under sub. (2) (a) 2. and
18 comply with the rules promulgated under sub. (3) (a) 4.

19 2. No later than October 1, 2006, and no later than every 3rd year after that
20 date, each municipal utility or retail electric cooperative shall notify the commission
21 whether it has elected to contribute all or part of the fees that it charges under par.
22 (a) to statewide programs established under sub. (2) (a) 1. in each fiscal year of the
23 3-year period for which it has made the election. A municipal utility or retail electric
24 cooperative that makes an election under this subdivision shall spend that portion

1 of the fees that it charges under par. (a) that it does not contribute to statewide
2 programs under sub. (2) (a) 1. on commitment to community programs.

3 (c) *Wholesale supplier credit.* If a wholesale supplier has established an energy
4 efficiency or load management program, a municipal utility or retail electric
5 cooperative that is a customer or member of the wholesale supplier may include an
6 amount equal to the product of the municipal utility's or retail electric cooperative's
7 wholesale supply percentage and the amount that the wholesale supplier has spent
8 on energy efficiency or load management programs in a fiscal year in calculating the
9 amount that the municipal utility or retail electric cooperative has spent on
10 commitment to community programs under par. (b).

11 (d) *Joint programs.* Municipal utilities or retail electric cooperatives may
12 establish joint commitment to community programs, except that each municipal
13 utility or retail electric cooperative that participates in a joint program shall comply
14 with the spending requirements under par. (b).

15 (e) *Reports.* 1. For each fiscal year, each municipal utility and retail electric
16 cooperative that spends any portion of the fee that it charges under par. (a) for
17 commitment to community programs under par. (b) shall provide for an independent
18 audit of its programs and submit a report to the commission that describes all of the
19 following:

20 a. An accounting of fees charged to customers or members under par. (a) in the
21 fiscal year and expenditures on commitment to community programs under par. (b),
22 including any amounts included in the municipal utility's or retail electric
23 cooperative's calculations under par. (c).

24 b. A description of commitment to community programs established by the
25 municipal utility or retail electric cooperative in the fiscal year.

1 c. The effectiveness of the commitment to community programs in reducing
2 demand for electricity by customers or members.

3 d. The results of audits under this subdivision.

4 e. Any other information required by the commission.

5 2. The commission shall maintain reports filed under subd. 1. for at least 6
6 years.

7 (8) COMPLIANCE. An energy utility that spends the full amount determined for
8 it under sub. (3) (b) 3. in any year is considered to have satisfied its requirements
9 under this section for energy efficiency and renewable resource programs for that
10 year.

11 **SECTION 39. Nonstatutory provisions.**

12 (1) ~~INITIAL CONTRACTS FOR ADMINISTRATION OF ENERGY EFFICIENCY AND RENEWABLE~~
13 ~~RESOURCE PROGRAMS.~~ To promote administrative efficiency and build on existing,
14 successful programs, the public service commission shall direct energy utilities, as
15 defined in section 196.374 (1) (d) of the statutes, as created by this act, to negotiate
16 initial contracts under section 196.374 (2) (a) 1. of the statutes, as created by this act,
17 with the holders of current contracts under section 16.957 (3) (b) of the 2003–04
18 statutes, to the extent that the programs administered by those contract holders are
19 functioning effectively and accomplishing most or all of the goals set for them.

20 **SECTION 40. Effective dates.** This act takes effect on the day after publication,
21 except as follows:

22 (1) ~~LOW-INCOME ASSISTANCE PROGRAMS; ENERGY EFFICIENCY AND RENEWABLE~~
23 ~~RESOURCE PROGRAMS; STATE ENERGY POLICY.~~ The treatment of sections 16.957, 196.025
24 (1), and 196.374 of the statutes takes effect on July 1, 2007.

25 (END)

INSERT 19-19

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4303/P2ins
MDK:.....

INSERT 2-4:

SECTION 1. 16.657 (title) of the statutes is repealed and recreated to read:

16.657(title) Low-income assistance.

INSERT 3-10:

****NOTE: The instructions include repealing s. 16.957 (2) (a), which I assume is a typo. Or did you intend to repeal s. 16.957 (2) (a) (intro.), which requires DOA to consult with the Council on Utility Public Benefits?

INSERT 4-5:

SECTION 2. 16.957 (3) (a) of the statutes is renumbered 16.957 (3).

INSERT 5-25:

****NOTE: See the reference I added to public benefits fees paid under current law.

INSERT 6-18:

****NOTE: See the reference I added to public benefits fees paid under current law.

INSERT 6-22:

****NOTE: I made changes to the above. Are my changes okay?

INSERT 7-17:

****NOTE: I substituted "commitment to community programs" for the reference to low-income assistance.

INSERT 8-17:

SECTION 3. 196.025 (1) (title) of the statutes is created to read:

196.025 (1) (title) STATE ENERGY POLICY.

INSERT 9-2:

acquire, construct, install, or operate any plant, equipment, property, or facility

INSERT 9-8:

(c) *Renewable resources.* 1. In this paragraph, "renewable resource" has the meaning given in s. 196.478 (1) (h) and includes a resource with a capacity of 60 megawatts or more that derives electricity from hydroelectric power.

2. In a proceeding regarding a request by a utility under s. 196.49, 196.491 (3), or 196.80 for authority to acquire, construct, install, or operate any plant, equipment, property, or facility, the commission is not required to consider renewable resources as an element of or alternative to the proposal if all of the following apply:

a. The commission has fulfilled all of its duties and responsibilities under s. 196.378.

b. The utility is in compliance with the requirements of s. 196.378 (2) for that year.

(d) *Transmission facilities.* In a proceeding regarding a request by a utility under s. 196.49 or 196.491 (3) to construct, install, or operate an electric transmission facility or associated equipment, the commission is not required to find that approval of the proposal would implement the policies under s. 1.12 (2) to (5).

SECTION 4. 196.025 (1m) (title) of the statutes is created to read:

196.025 (1m) (title) TRANSMISSION CORRIDORS.

***NOTE: If you want to create titles for the paragraphs in s. 196.025 (1), then titles must be created for every other subsection in s. 196.025.

SECTION 5. 196.025 (2) (title) of the statutes is created to read:

196.025 (2) (title) ENVIRONMENTAL IMPACTS.

SECTION 6. 196.025 (2m) (title) of the statutes is created to read:

196.025 (2m) (title) COORDINATION WITH DEPARTMENT OF NATURAL RESOURCES.

SECTION 7. 196.025 (3) (title) of the statutes is created to read:

196.025 (3) (title) RELIABILITY REPORTS.

SECTION 8. 196.025 (4) (title) of the statutes is created to read:

196.025 (4) (title) SMALL-SCALE GENERATION INCENTIVES.

SECTION 9. 196.025 (5) (title) of the statutes is created to read:

196.025 (5) (title) MARKET POWER STUDY.

INSERT 9-23:

****NOTE: Is it okay to exclude references to cooperatives from the above?

(f) "Ordered program" means any of the following:

1. An energy efficiency or renewable resource program that an energy utility conducted under s. 196.374, 1997 stats., and continued to conduct under a commission order in effect on the effective date of this subdivision [revisor inserts date].

2. A shared savings program that an energy utility conducted prior to October 29, 1999, and continued to conduct under a commission order in effect on the effective date of this subdivision [revisor inserts date].

3. An energy efficiency or renewable resource program that an energy utility conducted under a commission order issued on or after October 29, 1999, and before the effective date of this subdivision [revisor inserts date].

INSERT 10-6:

(j) "Shared savings program" means a program under which an energy utility finances the installation of energy efficiency improvements or renewable resources systems in the facilities of a customer and recovers the cost of the installation from a portion of the cost savings realized by the customer as a result of the installation.

INSERT 10-5:

****NOTE: "Research technology transfer" sounds like jargon and I'm not sure what it means.

INSERT 10-23:

b. Components to reduce the energy costs incurred by local units of government and agricultural activities, including programs to increase the efficiency of energy use by local units of government and agricultural activities and programs to promote

and provide technical and financial assistance for the installation of renewable resources at buildings and other facilities of local units of government and agricultural activities. The commission shall ensure that not less than \$29 million from the moneys utilities are required to spend under sub. (3) (b) 3. is spent on programs under this subdivision except that, if the commission determines that the full amount cannot be spent on cost-effective programs for local units of government and agricultural activities, the commission shall ensure that any surplus funds be spent on programs to serve commercial and industrial customers. In this subdivision, "local unit of government" has the meaning given in s. 23.24 (4) (a) 1., and "agricultural activity" has the meaning given in s. 101.10 (1) (a).

INSERT 11-20:

The commission may not order a utility to administer or fund a program under this subdivision.

INSERT 12-3:

3. An energy utility that conducts or funds an ordered program may request, and the commission may approve to modify or discontinue, in whole or in part, the ordered program. An energy utility shall request the modification or discontinuation of an ordered program as part of the first proceeding under sub. (3) (b).

INSERT 12-23:

1. Evaluate the energy efficiency and renewable resource programs under sub. (2) (a) 1. and (b) 1. and ordered programs and set or revise goals, priorities, and measurable targets for the programs. The commission shall give priority to programs that moderate the growth in electric and natural gas demand and usage by facilitating markets and assisting market providers to achieve higher levels of energy efficiency, promoting energy reliability and adequacy, avoiding adverse

environmental impacts from the use of energy, and promoting rural economic development.

INSERT 13-6:

The level of total funding shall include the amount anticipated to be spent under ordered programs.

INSERT 19-19:

(2) INITIAL FUNDING LEVEL. In its first proceeding under section 196.374 (3) (b) of the statutes, as created by this act, the public service commission shall establish a total level of funding under section 197.374 (3) (b) 2. of the statutes, as created by this act, that is not less than \$75 million nor more than \$121 million, except that the public service commission may submit to the joint committee on finance a proposed total level of funding that is less than \$75 million or more than \$121 million. If the cochairpersons of the committee do not notify the public service commission within 10 working days after the public service commission submits such a proposal that the committee has scheduled a meeting to review the proposal, the public service commission may establish the funding level specified in the proposal. If, within 10 working days after the public service commission submits a proposal, the cochairpersons of the committee notify the public service commission that the committee has scheduled a meeting to review the proposal, the public service commission may establish an initial funding level only upon the approval of the committee.